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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,035	03/01/2000	Robert A. Cohen	US 000050	3183

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EXAMINER

PHILIPPE, GIMS S

ART UNIT PAPER NUMBER

2613

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/516,035

Applicant(s)
Cohen et al.

Examiner
Gims Philippe

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2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 15, 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Response to Amendment

1. Applicant's amendment received on April 15, 2002 in which claims 12-16 were added has been fully considered and entered, but the arguments are not deemed to be persuasive.

Note: the examiner acknowledges the addition of claims 12-16, however, it is the examiner's belief that the limitations of these claims have been previously addressed in the last rejection. Therefore, no new prior art is necessary to meet the limitations of these claims.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-8, and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li (US Patent no. 6,275,531) for the same reasons as previously set forth in the last office action mailed on January 3, 2002, paper no. 4.

Regarding the above claims, the applicant argues that each independent claim recites "a given interval" and thus requires that the streaming video data be logically divided into time intervals.

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While the examiner understands the applicants argument, the examiner wishes to point to Li col. 5, lines 47-56 which is a more detailed definition of the previously cited section of Li (i.e. col. 1, lines 46-47). The applicant should also note that Li clearly indicates that the scalable video coding technique is very desirable for transmitting video over a time varying bandwidth. Therefore, the step of providing "a given interval" in Li is rather inherent (See Li col. 2, lines 28-37, and col. 8, lines 64-67).

The applicant further argues that the claims recite "determining whether a loss of bandwidth has occurred during a particular interval". And that the office action concedes that such function is not shown in Li. While the examiner understands the applicant's argument, the section referred to in the last office action clearly indicated that if Li identifies various conditions indicating a loss of bandwidth; and since Li acknowledges that this condition occurs during a time varying bandwidth. It implies that such step of "determining whether a loss of bandwidth has occurred during a particular interval", or any portion the maximum bandwidth, is necessary in Li as disclosed in col. 5, lines 62-67, col. 6, lines 1-4 as well as the previously cited col. 3, lines 28-42.

The applicant further argues that the claims recite "adapting the transmission to any loss of bandwidth during the given interval by calculating a reduced amount of enhancement data". And such feature is not shown or suggested in the prior art. The examiner respectfully disagrees since

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Li provides the adapting step in col. 3, lines 44-64 wherein the method includes determining the number of layers bitstreams capable of being adapted to the bandwidth.

The applicant further argues that Li teaches adapting an entire video data stream to constraints such as available bandwidth for a particular client, or the priority of concurrently transmitted video data streams, but does not teach or suggest adapting the granularity of the video stream during streaming to accommodate the loss of bandwidth. The examiner respectfully disagrees since in col. 6, Li particularly discloses that the server knows the condition of the transmission channel due to congestion and other physical constraints, and selectively sends bitstreams to the channel. In addition, since Li discloses a scalable coding process, adapting the granularity during the streaming is rather expected (See Li col. 2, lines 29-37).

The applicant should also note that Li discloses the same method comprising transmitting non-enhancement layer during a given interval (See Li col. 5, lines 48-49, and col. 9, lines 53-55) wherein the guaranteed base layer is a non-enhancement layer, and since Li determines the minimum number of bits in a frame, this minimum is considered as the minimum required for the base layer.

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4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li (US Patent no. 6,275,531) in view of Chaddha (US Patent no. 5,742,892) for the same reasons as previously set forth in the last office action mailed on January 3, 2002, paper no. 4.

Regarding claims 9-10, it is noted that while the Applicant argues that Li does not teach the non-obvious limitations of the present invention, he/she did not present any specific argument. Considering the response to the argument stated above by the Examiner regarding Li, it is plausible to conclude that the claims were properly rejected.

Note: the applicant should really consider the previously cited prior art Radha et al. (US 6,292,215) as rejecting all the claims except claim 5. In Radha et al. it is disclosed that the system determines a bandwidth of the receiver and then selects which of the coded residual images to output based on the bandwidth of the receiver (See Radha et al. col. 2, lines 49-64), the argued "granularity adaptation" is taught in col. 3, lines 41-51. Radha et al. also determines whether a loss occurred during a given interval (See Radha et al. col. 9, lines 58-66 and in col. 10, lines 5-11). The parameters monitoring step performed periodically in Radha et al. determines whether a loss occurred in the given interval.

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Allowable Subject Matter

5. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (703) 305-1107. The examiner can normally be reached on Tuesday through Friday from 9 a.m. to 6 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley, can be reached on (703) 305-4856. The fax phone number for this Group is (703) - 308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)-305-4700

Gims S. Philippe

GP

June 19, 2002

Chris Kelley
CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600